

Opinion No. 210.

Milk Control Board—Distributors—Producers—Prices.

HELD: The prices paid by distributors to producers are automatically fixed by the last paragraph of subdivision b, Section 7, Chapter 204, Laws of 1939, and supersede all prices fixed by the Milk Control Board under the act repealed by said Chapter 204.

March 11, 1940.

Hon. G. A. Norris
Secretary, Montana Milk Control
Board
The Capitol

Dear Mr. Norris:

You have submitted the following:

"Will you be so kind as to render to the office of the milk control board your interpretation of the last para-

graph under article B., Section 7, Chapter 204, Session Laws of 1939, pertaining to the prices to be paid to the producer by the distributor.

"Kindly advise if your interpretation of this section of the law requires that the distributor pay the producer for such milk purchased for fluid consumption on a gallonage basis or on a butterfat content basis.

"Also please advise if the fixing of prices to be paid to the producer by the distributor in accordance with the section above referred to takes precedence over any and all other orders approved by the previously constituted milk control board for payment of fluid milk so purchased on a butterfat content basis."

Answering your first question, since the retail price is on the gallonage basis and this is twice the price paid by the distributor to the producer, we think the price paid by the distributor to the producer must be on the same basis, that is on the gallonage basis, in order that the two prices may be correctly compared.

In regard to your second question, we think that it should be answered in the affirmative since the price paid to the purchaser by the distributor is automatically fixed according to the retail price and the board is therefore not vested with any discretion. We think that all orders made by the old board under the old act are superseded by the provisions of the statute cited by you, as Chapter 204, Laws of 1939, repealed all acts in conflict therewith.